

U.S. Patent Application No.: 09/340,391
Attorney Docket No. 045112-0023

19. A pesticidal composition comprising an acceptable pesticidal carrier, benzyl alcohol and N-(2-ethylhexyl)-bicyclo-(2,2,1)hept-5-ene 2,3-dicarboximide.

20. A pesticidal composition comprising an acceptable pesticidal carrier, eugenol and piperonyl butoxide.

21. A pesticidal composition comprising an acceptable pesticidal carrier, eugenol and N-(2-ethylhexyl)-bicyclo-(2,2,1)hept-5-ene 2,3-dicarboximide.

22. A pesticidal composition comprising an acceptable pesticidal carrier, phenyl ethyl alcohol and piperonyl butoxide.

23. A pesticidal composition comprising an acceptable pesticidal carrier, phenyl ethyl alcohol and N-(2-ethylhexyl)-bicyclo-(2,2,1)hept-5-ene 2,3-dicarboximide.

REMARKS

The specification has been amended to set forth the chemical name of MGK 264. Claims 1, 6, 7, 13 and 18-23 are pending. Claims 5, 11, 14 and 17 are cancelled "without prejudice to, or disclaimer of, the subject matter they contain. Applicants respectfully retain the right to file continuing applications." Claims 1 and 7 are amended, and Claims 18-23 are added, to encompass infringing subject matter. No new matter is added.

Attached hereto is a marked-up version of the changes made to the specification and/or claims by the current amendment. The attached page is captioned "Version With Markings To Show Changes Made."

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Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 1, 5-7, 11, 13-14 and 17 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Applicant traverses this rejection for at least the following reasons.

In particular, the Office Action objects to the trade name "MGK 264" in the claims. Solely in an effort to advance prosecution, the specification and claims have been amended to set forth the chemical name of MGK 264 (i.e., N-(2-ethylhexyl)-bicyclo-(2;2;1)hept-5-ene 2,3-dicarboximide). Support for the chemical name of MGK 264 can be found at, *inter alia*, the website for the International Programme on Chemical Safety (IPCS) (<http://www.inchem.org/documents/jmpr/jmpmono/v067pr25.htm>). Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

In addition, the Office Action maintains the rejection with respect to Claims 1, 7 and 14 regarding use of the terms "acceptable" and "derivative". Solely in an effort to advance prosecution, Applicant has amended Claim 1 and 7 as follow:

The word "pesticidal" has been inserted after "acceptable".

The phrase "or derivative thereof" has been deleted.

As such, Applicant respectfully requests reconsideration and withdrawal of these rejections.

Rejections Under 35 U.S.C. §103

Claims 1, 5-7, 11, 13, 14 and 17 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Casida in view of Bessette et al. The Office Action states as follows.

Casida teaches it is well known to use piperonyl butoxide and MGK-264 with pyrethrins (p.196) and synthetic pyrethroids, as chrysanthemate ester (p. [B]9). combination with other insecticides is also shown. Bessette is exemplary in presentation of acceptable carriers (Casida p. 196); mentions aerosols and mosquito coils--both applied to locus where control is desired, as is well known in

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the art) - see dry powder and benzyl alcohol mixes (p. 15, 16), and focuses on natural insecticides.

Office Action on page 2-3. Applicant respectfully traverses this rejection to the extent it applies to the presently claimed invention and for at least the following reasons.

Casida in view of Bessette do not teach or suggest the claimed invention. The claimed invention is directed to pesticidal compositions comprising (1) at least one plant essential oil compound selected from a group consisting of benzyl alcohol, eugenol and phenyl ethyl alcohol, (2) an enzyme inhibitor selected from a group consisting of piperonyl butoxide, MGK-264 and sesamex, and/or (3) a synergist selected from a group consisting of pyrethrolone, allethrolone, chrysanthemic acid, chrysanthemyl alcohol, chrysanthemate ester, cis-jasmone, tetrahydrofurfuryl alcohol (THFA), forskolin, Lavendustin A and PD 98059. On the other hand, Casida merely discloses pyrethrum as an insecticide with or without synergists. Casida nowhere discloses or suggests the use of plant essential oil compounds in combination with an enzyme inhibitor and synergist as disclosed in the claimed invention. Likewise, Bessette merely discloses the use of plant essential oils and acceptable carriers. Bessette nowhere discloses or suggests the use of plant essential oils in combination with enzyme inhibitors or synergists, as disclosed and claimed by the present invention. Thus, Applicants submit that there would not have been any motivation to one of skill in the art, at the time of invention, to combine the cited references to reach the claimed invention. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. §102

Claims 14 and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by Casida. Applicants traverse this rejection to the extent it applies to the presently claimed invention. In particular, Claims 14 and 17 have been canceled without prejudice to, or disclaimer of, the subject matter they contain, thereby rendering the rejection moot.

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CONCLUSION

Early consideration and prompt allowance of the pending claims are respectfully requested. If anything could be done to place this application in condition for allowance, e.g., by Examiner's Amendment, Applicants respectfully request that the Examiner contact the undersigned representative at the telephone number listed below.

Please grant any extension of time deemed necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account No. 50-0417.

Respectfully submitted,

Date: November 15, 2002

By:



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document (including any paper referred to as being attached or enclosed) is being sent to the U.S. Patent and Trademark Office via facsimile transmission to (703) 872-9306 on the date indicated below, with a coversheet addressed to Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C., 20231.

Date: November 15, 2002

By: 
Kelli N. Watson, Registration No. 47,170

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ATTACHMENT**Version With Markings To Show Changes Made****IN THE SPECIFICATION**

The second full paragraph on page of the specification has been substituted with the following rewritten paragraph.

—In one embodiment, the present invention provides a synergistic and residual pesticidal composition comprising, in admixture with a suitable carrier and optionally with a suitable surface active agent, comprising one or more plant essential oil compounds and derivatives thereof, natural or synthetic, including racemic mixtures, enantiomers, diastereomers, hydrates, salts, solvates and metabolites, etc. in admixture with an enzyme inhibitor, such as, for example, piperonyl butoxide (PBO), N-(2-ethylhexyl)-bicyclo-(2.2.1)hept-5-ene 2,3-dicarboximide (MGK 264), and sesamex. In a preferred embodiment, the enzyme inhibitor is a P-450 enzyme inhibitor.

IN THE CLAIMS

Claims 5, 11, 14 and 17 are canceled without prejudice to, or disclaimer of, the subject matter they contain.

Claims 1 and 7 are amended, as follow.

1. (Amended) A pesticidal composition comprising[, in admixture with] an acceptable pesticidal carrier[,] and at least one plant essential oil compound selected from the group consisting of benzyl alcohol, eugenol and phenyl ethyl alcohol, [or derivative thereof] and an enzyme inhibitor selected from the group consisting of piperonyl butoxide, N-(2-ethylhexyl)-bicyclo-(2.2.1)hept-5-ene 2,3-dicarboximide [MGK 264], and sesamex.

5. (CANCELED)

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7. (Amended) A pesticidal composition comprising[, in admixture with] an acceptable pesticidal carrier[,] and at least one plant essential oil [or derivative thereof]selected from the group consisting of benzyl alcohol, eugenol, and phenyl ethyl alcohol, [and] an enzyme inhibitor selected from the group consisting of piperonyl butoxide, N-(2-ethylhexyl)-bicyclo-(2.2.1)hept-5-ene 2,3-dicarboximide [MGK 264], and sesamex, and at least one synergist selected from the group consisting of pyrethrolone, allethrolone, chrysanthemic acid, chrysanthemyl alcohol, chrysanthemate ester, cis-jasmone, tetrahydrofurfuryl alcohol (THFA), forskolin, Lavendustin A and PD 98059.

11. (CANCELED)

14. (CANCELED)

17. (CANCELED)

New Claims 18-23 are added, as follow:

18. (NEW) A pesticidal composition comprising an acceptable pesticidal carrier, benzyl alcohol and piperonyl butoxide.

19. (NEW) A pesticidal composition comprising an acceptable pesticidal carrier, benzyl alcohol and N-(2-ethylhexyl)-bicyclo-(2.2.1)hept-5-ene 2,3-dicarboximide.

20. (NEW) A pesticidal composition comprising an acceptable pesticidal carrier, eugenol and piperonyl butoxide.

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21. (NEW) A pesticidal composition comprising an acceptable pesticidal carrier, eugenol and N-(2-ethylhexyl)-bicyclo-(2,2,1)hept-5-ene 2,3-dicarboximide.
22. (NEW) A pesticidal composition comprising an acceptable pesticidal carrier, phenyl ethyl alcohol and piperonyl butoxide.
23. (NEW) A pesticidal composition comprising an acceptable pesticidal carrier, phenyl ethyl alcohol and N-(2-ethylhexyl)-bicyclo-(2,2,1)hept-5-ene 2,3-dicarboximide.

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